

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed November 8, 2010. At the time of the Office Action, Claims 23-40 were pending in this Application, and Claims 1-22 were previously cancelled without prejudice or disclaimer. All pending Claims 23-40 were rejected in the Office Action. Applicants respectfully requests reconsideration and allowance of all pending claims.

Rejections under 35 U.S.C. §103

Claims 39-40 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Alperovich* (U.S. 6,101,393) in view of *Bedingfield* (U.S. 2002/0110227), further in view of *Moss* (U.S. 2003/0123631).

Claims 23-28, 30-36 and 38 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Alperovich* in view of *Bedingfield* and further in view of 3G TS 23.140 V3.0.1. (2000-03) 3rd Generation Partnership Project; Technical Specification Group Terminals; Multimedia Messaging Service (MMS); Functional Description).

Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a prima facie case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Even if each limitation is disclosed in a combination of references, however, a claim composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *KSR Int'l. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). Rather, the Examiner must identify an apparent reason to combine the known elements in the fashion claimed. *Id.* "Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *Id.*, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Finally, the reason must be free of the distortion caused by hindsight bias and may not rely on ex post reasoning. *KSR*, 127 S.Ct. at 1742. In addition, evidence that such a combination was uniquely challenging or difficult tends to show that a claim was not obvious. *Leapfrog*

Enterprises, Inc. v. Fisher-Price, Inc. and Mattel, Inc., 485 F.3d 1157, 1162 (Fed. Cir. 2007), citing *KSR*, 127 S.Ct. at 1741.

The Examiner maintained his rejection of independent claims 39 and 40 in view of the same prior art, previously cited, with the exception that *Lazaridis* which is not prior art has been substituted by *Moss*. With respect to *Moss*, the Examiner states that this document is an analogous art document and allegedly closes the gap between *Alperovich* in view of *Bedingfield* and the current independent claims. Applicants respectfully disagree.

Moss is either not analogous art and as such would not be considered by a person skilled in the art or if considered, a combination of *Moss* with *Alperovich* in view of *Bedingfield* would not render the present independent claims obvious as will be explained in detail below.

Moss is not analogous art because *Moss* does not teach a system in which an anonymous caller is processed as claimed, namely, keeping the identity of the anonymous caller hidden from the receiving party. In all embodiments of *Moss*, some identification of the caller is necessary and is forwarded to the receiving party which then determines whether the identified caller should be put on a blocking list. A receiving party can only block a caller if his ID is presented to the calling party. (*Moss*, for example, paragraph [0011-0012]) Hence, for this reason, a person skilled in the art would not consider *Moss* when confronted with a system that handles anonymous calls.

Even if a person skilled in the art would consider *Moss*, which Applicants do not concede, a combination of *Moss* with *Alperovich* in view of *Bedingfield* as suggested by the Examiner would not lead to the subject matter of claims 39 and 40. *Moss* specifically teaches the processing of anonymous calls. According to *Moss*, such calls must be forwarded to a privacy service which retrieves the caller information from the calling party. (*Moss*, paragraph [0031] in combination with paragraph [0005]) According to *Moss*, when a standard caller identification cannot be provided, the call is blocked and a request for audible caller identification is transmitted to the calling party. (*Moss*, paragraph[0005]) It is essential for the system according to *Moss* to provide for a caller identification to manage its blocking list.

The Examiner impermissibly singles out a specific disclosure of requesting confirmation from a subscriber to block a caller (as disclosed, e.g. in paragraph [0013])

without taking the entire disclosure of *Moss* into consideration. To this end, Applicants respectfully submit that in making a determination of obviousness, “the prior art as a whole must be considered. The teachings are to be viewed as they would have been viewed by one of ordinary skill.” In re Hedges, 783 F.2d 1038, 1041, 228 USPQ 685, 687 (Fed. Cir. 1986). “It is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art.” *Id.* Therefore, Applicants respectfully traverse the rejections and submit that the reference relied upon does not teach or suggest what is being claimed in independent Claims 39 and 40, and all claims that dependent thereto.

Thus, if an anonymous call is received, the teaching of *Moss* requires to first retrieve information from the calling party to determine the identity contrary to the claim limitations in which information about the anonymous caller remains unavailable to the receiving party.

The rejection of claims 23-28, 30-36 and 38 is at least based on the same arguments as discussed above. Hence, the same rationale for allowing these claims as presented above applies.

CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-4871 of King & Spalding L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.457.2025.

Respectfully submitted,
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